

**STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
LOS ANGELES REGION**

IN THE MATTER OF:

Gregorio Velasquez, individually)	Complaint No. R4-2004-0013
and doing business as)	
Gollo's Auto Dismantler, Inc.)	
9611 South Alameda Street)	for
Los Angeles, California 90002-2625)	Administrative Civil Liability

YOU ARE HEREBY GIVEN NOTICE THAT:

1. You are alleged to have violated provisions of law for which the California Regional Water Quality Control Board, Los Angeles Region (Regional Board), may impose liability under §§ 13385 and 13399.33(a) of the California Water Code (CWC).
2. The facility you are operating, which is located at 9611 South Alameda Street in Los Angeles, California, is an automobile dismantling and retail parts sales facility which is required to file a Notice of Intent (NOI) to obtain coverage under General Permit No. CAS00001 (Waste Discharge Requirements for Discharges of Storm Water Associated with Industrial Activities) (the Permit) described below.
3. Pursuant to CWC § 13399.30, the Regional Board mailed a Notice of Non-Compliance (NNC) to you on September 19, 2003 by certified mail requesting you to file an appropriate NOI to obtain coverage under the Permit, or to submit a Notice of Nonapplicability (NNA) that specifies the basis for not needing to obtain coverage under the Permit. The NNC was returned on October 15, 2003 because it was not signed for by you or anyone else at your facility address. Your facility was then inspected on November 5, 2003 by staff from the Regional Board. The staff inspector confirmed that your facility does automobile dismantling and retail parts sales. During the inspection of your facility on November 5, 2003, the inspector hand-delivered the returned NNC to you. A Notice of Violation (NOV) was subsequently mailed to you on November 12, 2003 by certified mail for failing to submit the NOI within 30 days of issuance of the NNC. The NOV was accepted by you or your agent on November 17, 2003. The NOV warned you of the mandatory minimum penalties that are required to be assessed for failure to submit the NOI. A second NOV was mailed to you on January 28, 2004. The NOV was accepted by you or your agent on January 31, 2004. You failed to respond to the NNC and NOVs and to date, the NOI has not been received. By not submitting the NOI, you violated provisions of the Federal Clean Water Act and the CWC.
4. CWC § 13376 requires any person discharging pollutants or proposing to discharge pollutants to the navigable waters of the United States within the jurisdiction of the

April 2, 2004

Regional Board to file a report of discharge, and prohibits the discharge of pollutants except as authorized in waste discharge requirements issued by the Regional Board. CWC § 13385(a)(1) provides that any person violating CWC § 13376 shall be civilly liable, and CWC § 13385(c) provides that the Regional Board may administratively impose civil liability in an amount not to exceed ten thousand dollars (\$10,000) for each day the violation occurs.

5. CWC § 13399.30 requires any person, including a person subject to waste discharge requirements under section 1342(p) of Title 33 of the United States Code, that discharges, proposes to discharge, or is suspected by a regional board or the state board of discharging storm water associated with industrial activity that has not obtained coverage under an appropriate storm water NPDES permit, to submit to the regional board, within 30 days from the date on which a notice is sent by the regional board, the appropriate notice of intent to obtain coverage or a notice of non-applicability that specifies the basis for not needing to obtain coverage under an NPDES permit. CWC § 13399.33(a)(1) provides that the Regional Board shall impose a minimum penalty of not less than \$5,000 per year of noncompliance or fraction thereof on any person who fails to submit the required NOI in accordance with CWC § 13399.30.
6. Pursuant to CWC § 13399.33(a)(2), the Regional Board is required to consider the following factors in determining the amount of civil liability to be imposed:
 - a. The nature, circumstances, extent, and gravity of the violation;
Failure to submit an NOI for a permit is a serious violation because it impairs the Regional Board's ability to protect public health and water quality. You have been in violation of this requirement for one years and 137 days, from November 16, 2002, when you filed an application or renewal addendum for an occupational license with California Department of Motor Vehicles (DMV) as Gollo's Auto Dismantlers, Inc. until April 2, 2004, when this enforcement order was prepared; therefore, no reduction in the civil liability is warranted.
 - b. Violator's ability to pay:
You failed to provide the Regional Board sufficient information to determine your ability to pay. The Regional Board feels that the penalty is correctly assessed; therefore, no reduction in the civil liability is warranted.
 - c. Prior history of violations:
Since you have failed to provide any information pertaining to your operations, the Regional Board does not have a record of other violations, and cannot determine the potential impact of this factor.
 - d. Degree of culpability:
The Regional Board sent you an NNC after your facility had been identified as a facility that may be subject to the requirements of the General Permit. During the facility inspection conducted on November 5, 2004, you were informed by a Regional Board inspector that you needed to file an NOI. Also, you misrepresented information on the

DMV application that no storm water permit was required. Therefore, no reduction in the civil liability is warranted.

e. Economic benefit or savings resulting from the violation:

Regional Board staff have examined the cost savings from your failure to comply with the State's storm water regulations, and estimated that it is at least \$4,530. This includes \$1,000 to develop a Storm Water Pollution Prevention Plan (SWPPP), \$1,530 in Permit fees, and \$1,000 per year to implement a SWPPP and Monitoring Plan.

f. Other matters as justice may require:

Regional Board staff contacted you via telephone on December 9, 2003 and attempted to explain the necessity of you submitting an NOI. You abruptly hung up on staff as they were speaking with you.

7. After consideration of these factors, the Executive Officer proposes civil liability be imposed on you in the amount of \$10,370 (of this amount, \$5,000 represents the minimum mandatory penalty of CWC § 13399.33(a)(1)) for the violation cited above).
8. CWC § 13399.33(d) provides that the Regional Board shall recover from you the costs incurred by the Regional Board in this matter. The Regional Board charges a rate of \$70 per hour for staff cost recovery. As of April 2, 2004, staff spent 12 hours investigating your failure to comply with the NOI requirement of the General Permit. Staff costs to date incurred by the Regional Board total \$840.

PROPOSED CIVIL LIABILITY

PENALTY CATEGORY	CALCULATION	TOTAL
Non-compliance with CWC § 13399.30 by failing to submit an NOI.	CWC § 13399.33(a): Minimum penalty of \$5,000 for failing to submit the NOI to obtain coverage.	\$5,000
Avoided Cost	\$1,000 for SWPPP; \$1000 per year for annual report compliance activities (two year period).	\$3,000
Avoided Annual Permit Fees	\$700 for 2002-2003, \$830 for 2003-2004.	\$1,530
Recovery of Staff Costs	\$70/hour x 12 hours	\$ 840
Recommended ACL		\$10,370

9. A hearing concerning this Complaint will be held before the Regional Board or Regional Board Hearing Panel (Hearing Panel) within ninety days after service of this Complaint on you. You will be notified at least ten days in advance of the date, time and place of the hearing. You or

your representative will have an opportunity to appear and be heard, and to contest the allegations in this Complaint and the imposition of civil liability by the Regional Board

10. The Regional Board will consider whether to affirm, reject or modify the proposed administrative civil liability or to refer the matter to the Attorney General for recovery of judicial civil liability in a greater amount than assessed herein.
11. In the event that you fail to comply with the requirements of this Complaint, the Executive Officer is authorized to refer this matter to the Office of the Attorney General for enforcement
12. You may waive your right to a hearing. Should you choose to waive your right to a hearing, an authorized agent must sign the waiver form attached to this Complaint and return the executed waiver to the Regional Board at 320 West 4th Street, Suite 200, Los Angeles, CA 90013, to be received by the Regional Board by the close of business on May 5, 2004. You must submit a check in the amount of \$10,370 (payable to the State Water Resources Control Board-Storm Water Account) with the signed waiver.

If you have any questions, please contact Wendy Phillips at (213) 576-6618 or Jeff Mack at (213) 620-2121.

Date

Dennis A. Dickerson
Executive Officer

WAIVER OF HEARING

By signing below and attaching a \$10,370 check for the amount of civil liability proposed in Administrative Civil Liability Complaint No. R4-2004-0013, Gregorio Velasquez, individually and doing business as Gollo's Auto Dismantler, Inc., waives the right to a hearing before the Regional Board or Regional Board Hearing Panel. He understands that he is forgoing his right to argue against the allegations made by the Executive Officer in this Complaint, and against imposition of, and the amount of, civil liability imposed. Furthermore, he understands that if an Administrative Civil Liability Order is adopted by the Regional Board, payment will be due thirty days after the date of adoption.

Signature: _____

Name: _____

Position: _____

Gregorio Velasquez, individually and doing business as
Gollo's Auto Dismantler, Inc.,

Date: _____